

and entities that differ from it must also be transmitted.

(c) If a State has not established a process, or is unable to submit a State process recommendation, State, areawide, regional and local officials and entities may submit comments either to the applicant or to VA.

(d) If a program or activity is not selected for a State process, State, areawide, regional and local officials and entities may submit comments either to the applicant or to VA. In addition, if a State process recommendation for a nonselected program or activity is transmitted to VA by the single point of contact, the Secretary follows the procedures of §40.10 of this part.

(e) The Secretary considers comments which do not constitute a State process recommendation submitted under these regulations and for which the Secretary is not required to apply the procedures of §40.10 of this part, when such comments are provided by a single point of contact, by the applicant, or directly to the VA by a commenting party.

(Authority: 42 U.S.C. 4231(b))

**§40.10 Making efforts to accommodate intergovernmental concerns.**

(a) If a State process provides a State process recommendation to VA through its single point of contact, the Secretary either:

- (1) Accepts the recommendation;
- (2) Reaches a mutually agreeable solution with the State process; or
- (3) Provides the single point of contact with such written explanation of the decision, as the Secretary in his or her discretion deems appropriate. The Secretary may also supplement the written explanation by providing the explanation to the single point of contact by telephone, other telecommunication, or other means.

(b) In any explanation under paragraph (a)(3) of this section, the Secretary informs the single point of contact that:

- (1) The VA will not implement its decision for at least ten days after the single point of contact receives the explanation; or
- (2) The Secretary has reviewed the decision and determined that, because

of unusual circumstances, the waiting period of at least ten days is not feasible.

(c) For purposes of computing the waiting period under paragraph (b)(1) of this section, a single point of contact is presumed to have received written notification five days after the date of mailing of such notification.

(Authority: 42 U.S.C. 4231(b))

**§40.11 Interstate.**

(a) The Secretary is responsible for:

(1) Identifying proposed Federal financial assistance and direct Federal development that have an impact on interstate areas;

(2) Notifying appropriate officials and entities in States which have adopted a process and which select VA's program or activity.

(3) Making efforts to identify and notify the affected State, areawide, regional, and local officials and entities in those States that have not adopted a process under the order or do not select VA's program or activity;

(4) Responding pursuant to §40.10 of this part if the Secretary receives a recommendation from a designated areawide agency transmitted by a single point of contact, in cases in which the review, coordination, and communication with VA have been delegated, or

(b) The Secretary uses the procedures in §40.10 if a State process provides a State process recommendation to VA through a single point of contact.

(Authority: 42 U.S.C. 4231(b))

**§40.12 [Reserved]**

**§40.13 Waiver.**

In an emergency, the Secretary may waive any provision of these regulations.

(Authority: 42 U.S.C. 4231(b))

**PART 41—AUDITS OF STATES, LOCAL GOVERNMENTS, AND NON-PROFIT ORGANIZATIONS**

**Subpart A—General**

Sec.

41.100 Purpose.

41.105 Definitions.